

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 10-13164 (JPM)

4 - - - - - x

5 In the Matter of:

6

7 FAIRFIELD SENTRY LIMITED, et al.,

8 Debtors in Foreign Proceedings.

9 - - - - - x

10 Adv. Pro. No. 10-03626 (JPM)

11 - - - - - x

12 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

13 Plaintiffs,

14 v.

15 BGL BNP PARIBAS SA, et al.,

16 Defendants.

17 - - - - - x

18 Adv. Pro. No. 10-03627 (JPM)

19 - - - - - x

20 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

21 Plaintiffs,

22 v.

23 BNP PARIBAS SECURITIES SERVICES LUXEMBOURG, et al.,

24 Defendants.

25 - - - - - x

1 Adv. Pro. No. 10-03630 (JPM)

2 - - - - - x

3 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

4 Plaintiffs,

5 v.

6 HSBC SECURITIES SERVICES (LUXEMBOURG) SA, et al.,

7 Defendants.

8 - - - - - x

9 Adv. Pro. No. 10-03635 (JPM)

10 - - - - - x

11 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

12 Plaintiffs,

13 v.

14 ABN AMRO SCHWEIZ AG a/k/a AMRO (SWITZERLAND) AG, et al.,

15 Defendants.

16 - - - - - x

17 Adv. Pro. No. 10-03636 (JPM)

18 - - - - - x

19 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

20 Plaintiffs,

21 v.

22 ABN AMRO SCHWEIZ AG a/k/a AMRO (SWITZERLAND) AG, et al.,

23 Defendants.

24 - - - - - x

25

1 Adv. Pro. No. 10-04098 (JPM)

2 - - - - - x

3 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

4 Plaintiffs,

5 v.

6 BNP PARIBAS ARBITRAGE SNC, et al.,

7 Defendants.

8 - - - - - x

9 Adv. Pro. No. 10-04099 (JPM)

10 - - - - - x

11 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

12 Plaintiffs,

13 v.

14 BNP PARIBAS PRIVATE BANK AND TRUST CAYMAN LTD., et al.,

15 Defendants.

16 - - - - - x

17 Adv. Pro. No. 11-01579 (JPM)

18 - - - - - x

19 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

20 Plaintiffs,

21 v.

22 BNP PARIBAS SECURITIES NOMINEES LTD., et al.,

23 Defendants.

24 - - - - - x

25

1 Adv. Pro. No. 11-01617 (JPM)

2 - - - - - x

3 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

4 Plaintiffs,

5 v.

6 FORTIS BANK, SA/NV, et al.,

7 Defendants.

8 - - - - - x

9 Adv. Pro. No. 19-01122 (JPM)

10 - - - - - x

11 FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,

12 Plaintiffs,

13 v.

14 CITCO GLOBAL CUSTODY NV, et al.,

15 Defendants.

16 - - - - - x

17

18 United States Bankruptcy Court

19 One Bowling Green

20 New York, NY 10004

21

22 November 6, 2023

23 10:04 AM

24

25

1 B E F O R E :

2 HON JOHN P. MASTANDO III

3 U.S. BANKRUPTCY JUDGE

4

5 ECRO: JONATHAN

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 HEARING re Status Conference

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 BROWN RUDNICK LLP

4 Attorneys for Fairfield Sentry Limited (In Liquidation)

5 1 Financial Center

6 Boston, MA 02111

7

8 BY: JEFFREY L. JONAS

9 DAVID MOLTON

10 MAREK KRZYZOWSKI

11 KYLE DORSO

12

13 ALLEGAERT BERGER & VOGEL LLP

14 Attorneys for 9 Defendants

15 111 Broadway, 20th Floor

16 New York, New York 10006

17

18 BY: DAVID A. SHAIMAN

19

20 GIBSON, DUNN & CRUTCHER, LLP

21 For Defendant UBS AG New York and UBS Jersey Nominees

22 200 Park Avenue

23 New York, NY 10166

24

25 BY: MARSHALL R. KING

1 GILMARTIN, POSTER & SHAFTO LLP

2 Attorney for Private Space LTD

3 845 Third Avenue, 19th Floor

4 New York, New York 10022

5
6 BY: MICHAEL LAMBERT

7
8 WUERSCH & GERING LLP

9 Attorney for Defendants Centrum Bank AG (AMS), LGT Bank

10 in Liechtenstein AG, Bank Fund Total AB (originally

11 Finter Bank), Dresdner Bank (Schweiz) AG (now LGT Bank

12 Switzerland) and LGT Bank Liechtenstein

13 (now LGT Bank AG)

14 100 Wall Street, 10th Floor

15 New York, NY 10005

16
17 BY: GREGORY F. HAUSER

18
19 WOLLMUTH MAHER & DEUTSCH LLP

20 Attorney for Defendant Fairfield Investment Fund Ltd.

21 500 Fifth Ave 12th Floor

22 New York, NY 10110

23
24 BY: FLETCHER W. STRONG

1 KATTEN MUCHIN ROSENMAN LLP

2 Attorney for Defendants Coutts & Co., Ltd. and Harmony

3 Capital Fund Ltd.

4 50 Rockefeller Plaza

5 New York, NY 10020

6
7 BY: MARK T. CIANI

8
9 CLEARY GOTTlieb STEEN & HAMILTON LLP

10 Attorney for HSBC Securities Service Luxembourg and

11 HSBC Private Bank Suisse

12 One Liberty Plaza

13 New York, NY 10002

14
15 BY: JOSEPH M. KAY

16 ARI MACKINNON

17
18 O'MELVENY & MYERS LLP

19 Attorney for Credit Suisse AG and Clariden Leu Ltd.

20 7 Times Square

21 New York, NY 10036

22
23 BY: DANIEL SHAMAH

1 SULLIVAN & CROMWELL LLP

2 Attorney for Bank Sarasin & Cie

3 125 Broad Street, Suite 2701

4 New York, NY 10004

5
6 BY: MARK MAKAR

7
8 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

9 Attorney for CITCO defendants 19-01122

10 1285 Avenue of the Americas

11 New York, NY 10019

12
13 BY: DANIEL NEGLESS

14
15 CLIFFORD CHANCE US LLP

16 Attorney for Dexia Banque International a Luxembourg

17 31 W 52nd Street

18 New York, NY 10019

19
20 BY: JEFF E. BUTLER

1 WACHTELL, LIPTON, ROSEN & KATZ

2 Attorney for Pictet & Cie

3 51 West 52nd Street

4 New York, NY 10019

5

6 BY: EMIL A. KLEINHAUS

7

8 MCKOOL SMITH, P.C.

9 Attorney for Bank Julius Baer & Co., Ltd.

10 One Manhattan West

11 395 9th Avenue, 50th Floor

12 New York, NY 10001

13

14 BY: ERIC B. HALPER

15

16 HARNIK LAW FIRM

17 Attorney for Vorarlberger Banque

18 666 Third Avenue, 10th Floor

19 New York, NY 10017

20

21 BY: STEPHEN M. HARNIK

22

23

24

25

1 FRESHFIELDS BRUCKHAUS DERINGER US LLP
2 Attorney for BBVA (Suisse) SA
3 601 Lexington Avenue, 31st Floor
4 New York, NY 10022
5

6 BY: CHRISTIAN VANDERGEEST
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 P R O C E E D I N G S

2 CLERK: All rise.

3 THE COURT: Good morning. Please be seated. Good
4 morning, everyone. We are here on various Fairfield matters
5 for a status conference. Can I please have appearances for
6 the record and just identify the case that you're appearing
7 in.

8 MR. JONAS: Good morning, Your Honor. Jeff Jonas
9 from Brown Rudnick. With me are David Molton, Marek
10 Krzyzowski and Kyle Dorso on behalf of Kenneth Kryz and Greg
11 Mitchell as joint liquidators of Fairfield Sentry, Fairfield
12 Sigma, and Fairfield Lambda.

13 THE COURT: Good morning.

14 MR. JONAS: Good morning.

15 MR. SHAIMAN: Good morning, Your Honor. David
16 Shaiman,

Allegaert Berger & Vogel. We represent nine
17 defendants with pending motions in these proceedings,
18 starting with 10-3627. We represent Rothschild & Co. Asset
19 Management Europe, formerly known as Rothschild & Cie
20 Gestion as manager of the Elan Gestion Alternative Fund,
21 which was sued as Rothschild & Cie Banque-EGA.

22 Moving on to ten -- and 10-3636, we represent one
23 party sued in both of those actions, Rothschild & Co. Bank
24 AG, sued as Rothschild Bank AG Zurich Dublin, also known as
25 Rothschild Bank AG.

1 And then finally sued in just the 10-3636 action,
2 we represent bank Lombard Odier & Cie SA, sued as Lombard
3 Odier Hentsch & Cie, Banque Cantonale Vaudois, BCV AMC
4 Defensive Alt Fund, sued as BCV AMD Defensive AL Fund, CBH
5 Company Bancaire Helvtique SA, sued as Compagnie Bancaire
6 Helvtique, Edmond de Rothschild (Suisse) S.A. as successor-
7 in-interest to Sella Bank AG, Edmond de Rothschild (Suisse)
8 S.A. sued as Rothschild Bank Geneva (Dublin), and finally,
9 Edmund de Rothschild (Suisse) S.A. as successor-in-interest
10 to Rothschild Lugano Dublin, AKA Banca Privata Edmond
11 de Rothschild Lugano S.A.

12 I will be speaking, at least initially, on behalf
13 of the Defendants, but others may chime in.

14 THE COURT: Great, thank you.

15 MR. KING: Good morning, Your Honor. Marshall
16 King from Gibson, Dunn & Crutcher on behalf of UBS AG, a
17 defendant in 10-3635 and 10-3636, and UBS Jersey Nominees
18 Limited, which is just in 10-3636.

19 THE COURT: Good morning. Thank you.

20 MR. LAMBERT: Good morning, Your Honor. Michael
21 Lambert of Gilmartin, Poster & Shafto LLP. We represent
22 Private Space Ltd., which is a defendant in 10-3630.

23 THE COURT: Good morning. Thank you.

24 MR. HAUSER: Good morning, Your Honor. Gergory
25 Hauser of Wuersch & Gering. We represent three defendants,

1 all in the 3636 action. Bank Fund Total AB, originally sued
2 as Finter Bank, Dresdner Bank (Schweiz), now known as LGT
3 Bank Switzerland, and LGT Bank Liechtenstein, now known as
4 LGT Bank AG.

5 THE COURT: Good morning. Thank you.

6 MR. STRONG: Good morning, Your Honor. Fletcher
7 Strong, Wollmuth Maher & Deutsch. I have one defendant in
8 these proceedings. We represent Fairfield Investment Fund
9 Ltd. in Adversary Proceeding 10-3636.

10 THE COURT: Good morning. Thank you.

11 MR. STRONG: Good morning.

12 MR. CIANI: Good morning, y h. Mark Ciani from
13 Katten Muchin Rosenman on behalf of Coutts & Co, Ltd. and
14 Harmony Capital Fund in the 10-3636 action.

15 THE COURT: Good morning. Thank you.

16 MR. KAY: Good morning. Joseph Kay from Cleary
17 Gottlieb on behalf of HSBC Securities Services Luxembourg in
18 10-3630 and HSBC Private Bank Suisse in 10-3633. Your Honor
19 heard argument on our motion last month.

20 THE COURT: Good morning.

21 MR. SHAMAH: Good morning, Your Honor. Daniel
22 Shamah, O'Melveny & Myers, on behalf of Credit Suisse AG and
23 Clariden Leu Ltd. in 10-3636.

24 THE COURT: Good morning. Thank you.

25 MR. MAKAR: Good morning, Your Honor. Mark Makar

1 of Sullivan & Cromwell. We represent Bank J. Safra Sarasin
2 AG in the 10-3636 proceeding.

3 THE COURT: Good morning.

4 MR. NEGLESS: Good morning, Your Honor. Daniel
5 Negless from Paul Weiss. We represent the CITCO defendants
6 in the 19-01122 matter.

7 THE COURT: Good morning.

8 MR. BUTLER: Good morning, Your Honor. Jeff
9 Butler from Clifford Chance representing Banque
10 International a Luxembourg in two actions, the 10-3635 and
11 10-3636 action.

12 THE COURT: Good morning. Thank you.

13 MR. MACKINNON: Good morning, Your Honor. Again,
14 Ari MacKinnon from Cleary Gottlieb Steen & Hamilton
15 appearing in several actions. In 10-03626 on behalf of BGL
16 BNPP, in 10-03627 on behalf of BNP Securities Services
17 Luxembourg, in 10-03636 on behalf of BNP Suisse, in 10-04098
18 on behalf of BNPP Arbitrage, in 10-0499 on behalf of BNPP
19 Cayman, in 11-01579 on behalf of BNPP Securities Nominees
20 Ltd, in 11-01617 on behalf of BNP Fortis, and finally, 12-
21 01551 on behalf of BNPP (indiscernible). Thank you.

22 THE COURT: Good morning. Thank you.

23 MR. KLEINHAUS: Good morning, Your Honor. Emil
24 Kleinhaus, Wachtell, Lipton, Rosen & Katz. We represent
25 Banque Pictet & Cie in 10-3636. Thank you, Your Honor.

1 THE COURT: Good morning. Thank you.

2 MR. HALPER: Good morning, Your Honor. This is
3 Rick Halper with McKool Smith. We represent Bank Julius
4 Baer & Co., Ltd. in both 10-3635 and 10-3636.

5 THE COURT: Thank you. Good morning.

6 MR. HALPER: Good morning.

7 MR. HARNIK: Stephen Harnik on behalf of
8 Vorarlberger Banque in 3636. Good morning, Your Honor.

9 THE COURT: Good morning. Thank you.

10 MR. VANDERGEEST: Good morning, Your Honor.
11 Christian Vandergeest from Freshfields Bruckhaus Deringer.
12 We represent BBVA (Suisse) SA in 10-3636.

13 THE COURT: Good morning. Thank you. Anyone
14 else? Okay.

15 Well, thank you everyone for appearing. I wanted
16 to have a status conference just to discuss the way forward
17 and hearings on these matters. Of course we had one hearing
18 on several of the matters a few weeks ago. And I know some
19 of the motions are subject to certain restrictions in terms
20 of the timing, when they can be heard or should be heard and
21 certain various dates in November or December. And I'm
22 happy to hear from the parties on this. My thinking is to
23 have a hearing in a few weeks on four or five of the motions
24 and then go from there, scheduling periodic hearings as well
25 as needed going forward. And subject to, again, the

1 parties' views.

2 I was contemplating based on my understanding of
3 the status of the motions and the schedules in 10-3636
4 beginning with a hearing on the first five defendants, Bank
5 Hapoalim, Bank Safra, Bank Vontobel, Banque Cantonale
6 Vaudoise and Banque Lombard Odier and having that in late
7 November and then go from there in terms of scheduling
8 additional hearings.

9 But I wanted to hear from the parties as well if
10 they have any views as to that or any other way to proceed.

11 MR. SHAIMAN: Good afternoon, Your Honor. David
12 Shaiman. I do represent Banque Lombard Odier and Banque
13 Cantonale Vaudois, or BCV if you prefer. I certainly do.

14 I think that would work for the defendants, Your
15 Honor. One note, there are significant -- there is
16 significant crossover between I think all of these motions
17 as you saw on October 25th when Mr. King and Ms. Miller were
18 able to essentially just adopt Mr. Bamberger's argument. I
19 don't know if Your Honor was planning on having an opinion
20 out on any of those cases before the next round. I think
21 that would -- if we could schedule something after an
22 opinion had been issued, it would significantly streamline
23 things. I think generally many of the defendants would be
24 willing to, at least in the 3636 action, 3635, and 3627
25 action would be willing to adopt the arguments that had been

1 made on the 25th and stand on their papers.

2 I do know we pulled the defendants and there are
3 some who would need to make brief presentations. I don't
4 believe anyone was looking for more than five to ten minutes
5 in our poll. Just making very clear if there are distinct
6 issues that would set their defendants apart or the facts
7 underlining those disputes.

8 THE COURT: Thank you, Counsel. That's helpful.

9 MR. JONAS: Your Honor, Jeff Jonas from Brown
10 Rudnick for the joint liquidators. I can't really disagree
11 with that. We are ready to go forward in any way you want
12 to schedule the remaining motions to dismiss. But of course
13 to the extent there was a decision, it probably would be
14 very helpful and perhaps, hopefully from my standpoint
15 hopefully eliminate some of the motions to dismiss, the
16 personal jurisdiction motions to dismiss, but we'll see. So
17 that's really all I have to say.

18 THE COURT: Yeah. I did want to hear from the
19 various defendants as to the need for separate hearings.
20 Because everyone did make separate arguments at the last
21 hearing.

22 MR. JONAS: No doubt, Your Honor. I would be
23 perhaps too optimistic, but my hope would be depending on
24 how the decision came out that we could have some good faith
25 discussions and hopefully either eliminate or certainly

1 streamline the remaining motions to dismiss. Thank you.

2 THE COURT: Thank you.

3 MR. SHAIMAN: Your Honor, David Shaiman again --

4 THE COURT: Just identify yourself for the record,
5 Counsel. Sorry.

6 MR. SHAIMAN: Yes. David Shaiman again. I agree
7 with Mr. Jonas. And I would note that before these motions,
8 everything was consolidated for the most part. These are
9 the first round of motions where we've had defendants having
10 to make each their own motion. So I think we as the defense
11 group have definitely -- we'll definitely taken an eye
12 towards consolidating as much as possible. And I think as
13 we move forward with other motions, especially the
14 contemplated 20(b)(6), if Your Honor would be open to
15 consolidation, then I think the parties would be as well.
16 Or at least the defendants.

17 THE COURT: Okay. Thank you. Does anyone else
18 wish to be heard?

19 MR. HAUSER: Gregory Hauser, Your Honor. First
20 let me echo what the other defense lawyers have said. I
21 think there is a good chance that after one opinion, there
22 is -- many of us would probably be willing to rest on our
23 papers and forego a hearing. Presumably we have the
24 agreement of the liquidators. And just one minor individual
25 matter here. If you're going to proceed in late November, I

1 would like to ask that you leave Banque Vontobel for another
2 time. I am, for better or for worse, scheduled for major
3 surgery on November 21st and probably wouldn't be available
4 for about a month after that.

5 THE COURT: Thank you.

6 MR. HAUSER: Thank you. Would anyone else like to
7 be heard? Okay.

8 Well then why don't we do this. Based on what
9 counsel has indicated, I'm going to ask counsel to discuss
10 the issue and discuss which defendants would like to make a
11 presentation, how many of them, and how long. And then we
12 can figure out either a date or dates to schedule such a
13 hearing depending on the number. And we can go from there.
14 So I won't schedule it for right now, but if I could ask
15 counsel to discuss the issue and see if they can propose, at
16 least in terms of the parties. And then we can figure out
17 dates and schedules. Who wants to make a presentation, how
18 long. And then you can go from there and get something
19 scheduled. Okay.

20 Anything else from anyone in the court or on Zoom?

21 Okay. Can the parties do that in the next week to
22 ten days?

23 UNIDENTIFIED SPEAKER: I think I can speak for
24 everyone. We will, Your Honor.

25 THE COURT: Okay, great.

1 UNIDENTIFIED SPEAKER: We'll try to herd some
2 cats, Your Honor.

3 THE COURT: Okay, great. Thank you, everyone.
4 Thank you for coming in. Thank you for appearing. We are
5 adjourned. Thank you, everyone. Have a good day.

6 (Whereupon these proceedings were concluded)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: November 8, 2023